United Nations CCPR/C/SR.3249

International Covenant on Civil and Political Rights

Distr.: General
29 March 2016

Original: English

Human Rights Committee
116th session

Summary record of the 3249th meeting
Held at the Palais Wilson, Geneva, on Thursday, 17 March 2016, at 10 a.m.

Chair: Mr. Salvioli

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Sixth periodic report of Costa Rica (continued) (CCPR/C/CRI/6; CCPR/C/CRI/Q/6 and Add.1)

1. *At the invitation of the Chair, the delegation of Costa Rica took places at the Committee table.*

2. **Mr. Solano** (Costa Rica), referring to reports concerning the Nicaraguan comedian barred from entering Costa Rica, reiterated his Government's respect for freedom of expression but said that restrictions on such freedom were sometimes necessary to protect the rights and reputation of others, national security, public order, or the health and moral integrity of the population. Under article 61 of the Migration Act, the entry of a person could be prohibited if there were grounds to believe that it would compromise public security.

3. As a result of a special programme introduced with a view to improving access to higher education for indigenous students, 35 new indigenous students had registered at the University of Costa Rica in 2016, as compared to 13 in 2015, for a current total enrolment of 75 indigenous students at that University. The number of indigenous students currently attending the National University of Costa Rica and the Costa Rica Institute of Technology were 80 and 10, respectively. A system of tutors had been set up in 2014 to provide assistance with the school leaving examination: 40 university students thus provided tutoring in various communities around the country.

4. Since 2014, the National Social Security Institute had been taking measures to address obstetric violence, including by developing guidelines for maternity and other hospital staff on giving comprehensive care to women in childbirth and the post-partum period. In 2015, two cases of obstetric violence had been reported in the media and one case had been heard by the Supreme Court. Pregnant women were now instructed to report any irregularities in their interactions with obstetric staff.

5. Under article 121 of the Criminal Code, an abortion could be performed by an obstetrician with the consent of the woman concerned if there was a risk to her life or health, provided that such risk could not be eliminated by other means. No protocols had yet been issued for such procedures. As a result, there had been no applications for therapeutic abortion between 2014 and November 2015. With regard to contraceptives, he said that women and adolescent girls had access to contraceptives through the State social security system.

6. Between 2012 and 2015, the Directorate-General for Migration had developed, in cooperation with the United Nations High Commissioner for Refugees (UNHCR), an initiative to enhance the quality of the international protection system by, inter alia, speeding up the processing of asylum and refugee applications. In 2015, 2,203 persons had sought asylum in the country. The granting of refugee status offered the freedom to work in any occupation. If after three months a request for refugee status had not been processed, the person concerned was issued with a temporary work permit, which did not contain information on the person's refugee status. The Directorate-General for Migration together with UNHCR had concluded agreements with the National Institute of Apprenticeship, the Ministry of Education and a national council for university vice-chancellors in order to facilitate access to training and education centres by refugees and asylum seekers.

7. Furthermore, in order to provide services to persons not covered by health insurance, or to irregular migrants in need of antiretroviral treatment, the National Social Security

Institute had issued institutional guidelines for rapid HIV screening for high-risk populations. The only requirement was the presentation of valid identity documents. No information concerning the person's social security situation had to be provided. Those who were found to be HIV positive received support in order to regularize their insurance situation. If they failed to meet the requirements, the State would pay for their treatment under the Act No. 7771. The National Council for HIV/AIDS Integrated Care, which had been established in 1999, provided guidance to the Ministry of Health on relevant policies and helped ensure respect for the rights of persons living with HIV/AIDS and of their families.

8. Forced sterilization of persons with disabilities was illegal in Costa Rica. Free and informed consent of the individual as well as their autonomy and freedom of choice were vital. Under no circumstances could disability be deemed as grounds for sterilization.

9. On 8 May 2015, the third action plan for the period 2015-2018 on national and gender equality and a new observatory on gender violence against women and access to justice had been launched. A website had been established to provide information to women on, inter alia, alimony, domestic violence and the complaints procedure. No specific standards existed regarding reparations for women victims of violence. However, it was possible to sue for damages in the civil courts. A prosecutor responsible for indigenous affairs provided guidance to indigenous women on the procedure for lodging a complaints and afforded economic, social and legal support to victims.

10. The President of Costa Rica had recently reiterated his commitment to work towards ensuring that women would one day enter the labour market on an equal footing with men. A number of measures had been taken to prevent discrimination against women on the labour market, including equality councils in enterprises, a programme for childcare and development, and campaigns aimed at encouraging labour inspectors to address wage differences and at training young female jobseekers. Specific targeted training programmes had been developed to promote the participation of indigenous women in the labour market. Other initiatives included a programme for women entrepreneurs; entrepreneurship trade fairs; and the "My First Job" programme aimed at integrating 30,000 young people, women and persons with disabilities into the labour market in the coming years. Moreover, Costa Rica had ratified the International Labour Organization (ILO) Worst Forms of Child Labour Convention, 1999 (No. 182).

11. With regard to women's political participation, he said that the quota and parity systems had resulted in a noteworthy increase in women's political participation. However, in the recent municipal elections, women had won only 12 of 81 mayoral posts. In addition, in 2014, 16.7 per cent of indigenous development associations had been chaired by women. Over the previous 15 years, at least one or two of the 57 members of parliament in each four-year period of office had been of African descent. The current members of parliament included two persons of African descent and one indigenous man.

12. The National Fund against Smuggling of Migrants and Trafficking in Persons was funded through emigration tax revenues. For 2016, the national auditor had adopted 10 projects, through which around two million dollars would be invested in strengthening institutions and reinforcing security through data collection and intelligence mapping on criminal activity. In 2015, 40 police interventions and 25 operational interventions had been conducted and a total of 931 women and 3 men had been identified as possible victims of trafficking. Five persons had been convicted of trafficking and a gang of 38 persons involved in the trafficking of Cuban migrants had been arrested. In 2014, Costa Rica had earmarked 8,000 dollars from its ordinary budget to provide assistance to victims of trafficking. A temporary visa programme for such victims was also in place.

13. **Mr. Carvajal** (Costa Rica) said that the provisions of the Covenant were invoked on a daily basis by various judicial bodies in Costa Rica. For example, the Constitutional Chamber of the Supreme Court had invoked articles 6 (1), 14 (2), 14 (3), 15, 19 (2), 23 and 24 of the Covenant. Article 24 of the Covenant had also been invoked by the Social Chamber of the Supreme Court and article 14 (1) by the Criminal Chamber of the Supreme Court. An administrative tribunal responsible for settling disputes had invoked articles 6 and 7 of the Covenant, and a civil court had invoked article 3 of the Covenant.

14. **Mr. Vardzelashvili** expressed concern that the budget allocated for the Ombudsman was also used to fund activities of the national preventive mechanism and that, given the constantly increasing burden on the Ombudsman, it might not be sufficient to meet all the needs.

15. With regard to the Nicaraguan comedian, he said that State authorities were best placed to evaluate risks to public security. However, it would be useful to learn the reasons behind the State party's decision, especially since the comedian's repertoire was well known and had not caused tensions previously. He asked whether the comedian's nationality had led the Government to believe that his performance would compromise public security.

16. Additional information on measures taken to eliminate the practice of incommunicado detention would be welcome. Furthermore, referring to article 44 of the State party's Constitution, he requested information on grounds for incommunicado detention, safeguards for persons placed in such detention, how frequently it was used and how many prisoners were placed in incommunicado detention per year.

17. It would also be useful to learn how many prisoners, including incommunicado detainees, were held in maximum-security prisons. According to the information received by the Committee, detainees in maximum-security prisons were prevented from meeting with their legal representatives. However, he had also received information according to which incommunicado detainees were allowed to meet with their lawyers and family members, in which case such detention would not be incommunicado; clarification would be appreciated. He would welcome information on investigations into cases of abuse of power by law enforcement agents with regard to incommunicado detainees. Were human rights groups allowed to visit such detainees and, if so, who made the decision to allow such visits and on what legal grounds?

18. There were a number of discrepancies in the data provided by the State party in its replies to the list of issues (CCPR/C/CRI/Q/6/Add.1). For example, according to table No. 5, in 2015, the total number of deaths in prisons had been 34. However, the numbers of each category did not add up to 34. He requested information on measures taken to investigate the cases of homicide and suicide in prison between 2009 and 2015 and on the results of those investigations. It would also be useful to know what was meant by "accidental deaths" as it applied to 26 inmates. Furthermore, he requested details on the recent decision of the Criminal Court to acquit 10 prison guards accused in 2011 of killing Mr. Joehl Araya Ramirez, who had been found dead in his maximum-security cell. He also wished to know the reasons behind the high mortality rates in prisons.

19. He invited the delegation to provide the statistical data requested in paragraph 14 of the list of issues (CCPR/C/CRI/Q/6). According to reports by international organizations, national human rights institutions received more than 100 complaints per year and very few persons actually completed the steps necessary to register a complaint even in cases of repeated abusive behaviour by police officials; an explanation of the situation should be provided. Furthermore, it would be useful to know whether the information provided by the Ombudsman or by national preventive mechanisms to the relevant authorities was sufficient to start an investigation, and what steps the Ministry of Justice had taken to ensure the

proper protection of inmates at the maximum-security section of La Reforma Prison, including installing surveillance cameras, as ordered by the Supreme Court.

20. According to the State party's report, the Government planned to carry out construction in order to accommodate an additional 2,700 prison inmates. However, other sources of information claimed that 22 new units, each with a capacity of 65 inmates, would be built, resulting in a total additional capacity of just 1,430 inmates. He asked for clarification of the statistics and for information on the time frames for the planned construction. Furthermore, while the delegation had indicated that the new construction would reduce overcrowding by 20 per cent, according to its replies to the list of issues, there was currently over 40 per cent overcrowding. Therefore, it would be useful to know what steps would be taken to ensure a further 20 per cent reduction in overcrowding.

21. **Mr. Politi**, noting with satisfaction the steps taken by the State party to remedy the underrepresentation of women in decision-making positions, said that the Committee would be grateful for any statistics, disaggregated by ethnicity, on high-ranking women in politics.

22. He wished to know whether initiatives to combat human trafficking were aimed mainly at supporting victims or at identifying and prosecuting offenders. In that connection, he would appreciate additional information on the activities of, and funds allocated to, the special police and prosecutorial anti-trafficking units. The delegation should specify what punishments were set out for trafficking crimes in Act No. 9095 of 2015 and in the Criminal Code, and provide data, disaggregated by sex, age and country of origin, on victims from 2010 onwards. It should also indicate whether victims under 18 years of age received specialized psychological assistance.

23. He asked whether it was true that the State party's immigration laws did not establish a time limit for administrative detention, what measures were envisaged to alleviate overcrowding and enhance living conditions at the Temporary Detention Facility for Irregular Foreign Migrants, how many people were placed in immigration detention each year and, on average, for how long. The delegation should elaborate on the less burdensome alternatives to detention mentioned in the replies to the list of issues and indicate whether the Temporary Migration Service Centre was intended to complement the Temporary Detention Facility or to replace it.

24. He requested further details on the short-term detention facility at Juan Santamaría International Airport. In particular, the delegation should indicate its capacity, who was responsible for running the facility, whether men were held separately from women, whether any unaccompanied minors had been detained, and how many people were detained each year and, on average, for how long. Statistics on the length of pretrial detention and information on measures to limit its use and to prevent undue delays in judicial proceedings would also be welcome.

25. Regarding measures for the protection of minors, he wished to know what percentage of minors were employed, how the Government was ensuring the effective functioning of the National Child Protection System and what was being done to protect the children of seasonal migrant workers by, for example, guaranteeing their access to health care, preventing interruptions in their education and reaching agreements on the mutual recognition of educational certificates with their countries of origin. It would also be useful to know whether cyberbullying and the online sexual solicitation of minors were treated as individual offences and what steps were being taken to keep minors safe from online abuse and to improve birth registration facilities and mechanisms.

26. **Ms. Seibert-Fohr** recalled that all three branches of government had a duty to implement the Covenant and said that, with regard to in vitro fertilization and to therapeutic abortions, the judiciary had failed to take full account of the State party's human rights obligations. Noting reports that a fear of retribution contributed to the underreporting of

domestic violence and rape, she asked how the Government planned to rectify the situation and to what extent mediation was used in such cases as an alternative to litigation.

27. Turning to the issue of freedom of thought, conscience and religion, she asked what benefits and privileges were granted to the Catholic Church, whether it was true that the Government paid the salaries of the Catholic clergy and whether other religious communities were given subsidies and tax exemptions. The delegation should elaborate on bill No. 1.909, in particular by describing what rights would be conferred on non-Catholic religious communities and under what conditions.

28. She wished to know why bill No. 14352, on the self-development of indigenous peoples, still had not been adopted and the extent to which indigenous peoples were consulted prior to the approval of projects or measures that might affect their rights. The delegation should indicate whether a formal consultation process was in place and, if so, outline specific cases in which it had been followed. It should also describe the efforts made to ensure that school textbooks did not contain stereotypes about indigenous peoples or about persons of African descent.

29. She invited the delegation to comment on reports that non-indigenous persons had acquired land in indigenous territories unjustly with the tacit consent of the Government and enquired about the legal framework for the restitution of the land and for indigenous land tenure in general. She would be interested to know what was being done to evict the illegal occupants and to penalize the violent acts committed by those occupants in response to attempts by indigenous peoples to recover their land.

30. **Mr. de Frouville**, while thanking the delegation for the answers that it had provided, said that the periodic report was limited in content and that the replies to the list of issues were not organized in a reader-friendly manner. It would be helpful if, in future, the State party replied to each issue in a separate paragraph or section.

31. He thanked the delegation for the detailed information provided on the measures taken to eliminate discrimination against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, and said that he would appreciate receiving the information in written form. Furthermore, he would like to know whether consideration had been given to the adoption of comprehensive anti-discrimination legislation and a national plan on the matter. The delegation should also provide an update on the case of Carlos Manuel Sánchez Miranda, a judge who was facing disciplinary proceedings, allegedly for having recognized a same-sex union. He would like clarification on the exact content and scope of the Young Persons Act, particularly in relation to same-sex marriage. It would be useful to have a full account of the specific situation of intersex persons in Costa Rica, including on the number of sex reassignment procedures that had been performed on intersex children. He enquired about the content and status of the bill that would, inter alia, prohibit all forms of workplace discrimination against persons living with HIV/AIDS, and asked whether the National Commission to Combat AIDS was still active.

32. Turning to the issue of freedom of opinion and expression, he asked whether the 2013 amendments to the Cybercrimes Act had brought the Act fully into line with the Covenant and sought clarification on the scope of the law to regulate radio and television broadcasting services. Noting that there was no right under the Covenant not to be offended, he invited the delegation to comment on the suggestion that the decision to refuse entry into Costa Rica to comedian Reynaldo Ruiz had been not only disproportionate but also counterproductive, in that it had helped him to gain widespread publicity.

33. He requested information on rehabilitation programmes for minors in conflict with the law and asked how the delegation's assertion that only 10 per cent of juvenile offenders were sentenced to imprisonment was compatible with the concluding observations of the Committee on the Rights of the Child on the fourth periodic report of Costa Rica

(CRC/C/CRI/CO/4), in which that Committee had stated that deprivation of liberty seemed to be the general rule rather than the exception in criminal trials against juvenile offenders. The delegation should respond to the as yet unanswered requests contained in paragraph 22 of the list of issues by providing information on the measures adopted to guarantee that minors in conflict with the law had the right to appropriate legal aid and by specifying whether the State party had an independent mechanism responsible for monitoring respect for the rights enshrined in the Covenant in juvenile detention centres.

34. He asked what steps the Government was planning with a view to strengthening the work of the Inter-Institutional Commission for the Monitoring and Implementation of International Human Rights Obligations and improving the participation of civil society in the process of preparing periodic reports for treaty bodies.

35. **Ms. Waterval** asked the delegation to provide further information about the registration of births among the Ngobe-Bugle indigenous community. She would like to know what practical steps the authorities took to raise awareness among the general population of the need to register births, how many births had been registered in 2014, how many births were estimated to have gone unregistered and whether any procedure was in place to identify stateless persons.

36. **Ms. Cleveland** said that she would welcome information regarding the status of the case that had been brought before the Constitutional Court by two women who had been refused civil registration of their same-sex marriage and the steps that the State was taking to eliminate discrimination in marriage in the light of that case. With regard to the Government's plans to define therapeutic interruption of pregnancy, she asked whether the definition would take into account not only a woman's physical health but also her psychological health.

37. She asked what measures the Government intended to take to address the concerns expressed in a 2016 report of the Inter-American Commission on Human Rights regarding the use of pretrial detention in Costa Rica. In particular, she would like to know what it was doing to encourage the use of alternative measures to pretrial detention, to ensure that pretrial detention was used only in exceptional circumstances and for as short a period as possible and to look into the cases of pretrial detainees who had reportedly been held for long periods of time or indefinitely. Were there any plans to reintroduce the bill on the use of electronic monitoring as an alternative to detention? She asked the delegation to comment on the description of the conditions prevailing at La Reforma Prison contained in the above-mentioned report and to indicate what steps, if any, it was planning to take to address the shortcomings identified therein.

38. **The Chair** asked whether, in view of the disruption caused to the proper functioning of the legislature by the blocking of legislation by very small minority groups in parliament, there were any plans to amend the rules of procedure governing the legislative process to ensure that, among other things, full effect was given to the rights enshrined in the Covenant.

The meeting was suspended at 11.40 a.m. and resumed at 11.55 a.m.

39. **Ms. Whyte Gómez** (Costa Rica) said that, despite budgetary constraints, funding for the Office of the Ombudsman had remained stable in real terms.

40. **Ms. Sánchez Venegas** (Costa Rica), replying to a question concerning the selection process for the post of Deputy Ombudsman, said that the Ombudsman was responsible for submitting a nominee for the position to the Legislative Assembly, in accordance with the procedure established under Act No. 7319.

41. **Mr. Solano** (Costa Rica), referring to the case of a Nicaraguan comedian who had been denied entry to Costa Rica, said that the measure had been taken in the interests of his

personal safety and preserving public order, in the light of a number of threats that had been made against him because of xenophobic and homophobic remarks that he had made.

42. **Mr. Carvajal** (Costa Rica) said that, in accordance with the Code of Criminal Procedure, pretrial detention was an exceptional measure that could be ordered only under strict conditions, for example where there was sufficient evidence of the probable guilt of the suspect or where detention was necessary to ensure the proper conduct of the proceedings. Similarly, incommunicado detention, which was governed by article 261 of the Code, was ordered only in exceptional circumstances by a reasoned judicial decision for a maximum period of 10 days. A person held in incommunicado detention was in fact allowed to communicate with his or her lawyer and to receive certain items, such as food and medicines, from family members.

43. **Mr. Solano** (Costa Rica) said that persons held in pretrial detention accounted for approximately 19 per cent of the total prison population. A number of measures were being taken to reduce the rate of prison overcrowding, which currently stood at 45 per cent, including through day release schemes, the redistribution of detainees among various prisons and the construction of new facilities. Between 2010 and 2015, the prison mortality rate had ranged from 0.9 to 3.6 deaths per 1,000; the most common causes of death among detainees were natural causes and accidents.

44. **Mr. Carvajal** (Costa Rica) said that article 167 of the Criminal Code provided that anyone who sought to induce minors to engage in premature sexual acts was liable to a prison term of from 3 to 8 years. Furthermore, the Cybercrimes Act, which amended various provisions of the Criminal Code, provided for the imposition of criminal sanctions on persons who abused minors via the Internet.

45. **Ms. Whyte Gómez** (Costa Rica) said that the Government had worked in cooperation with various stakeholders in the public and private sectors at both the national and international levels, including the International Telecommunication Union, to establish an Internet platform that was designed to enhance the online protection of children.

46. The child labour rate had fallen steadily, from 11.6 per cent in 2003 to 4.6 per cent in 2011. According to a study carried out by the Ministry of Labour and ILO, in 2014 a total of 12,558 minors between the ages of 5 and 17 were performing some form of paid work. Child labour was particularly prevalent in rural areas, where levels of poverty and unemployment were high. The steady decline in the child labour rate could be attributed to a series of social programmes that had been implemented during the previous 15 years, in particular those aimed at improving access to education. In 2014, a national childcare and development network had been created with a view to establishing a universal, public access system with solidarity-based funding that would strengthen and expand the provision of childcare services, in particular for families living in situations of poverty and/or vulnerability. Children who participated in activities at centres affiliated to the network were less likely to become involved in child labour or exposed to the risk of sexual exploitation. It should also be noted that the Government, working together with ILO, had developed a road map to make Costa Rica a country free of child labour by 2020. As to child labour in the informal sector, since 2004 the Office of the Deputy Public Prosecutor, in cooperation with the Ministry of Labour and relevant local authorities, had decided to focus its efforts on prevention rather than punishment, in order not to criminalize poverty. It was difficult to quantify the incidence of child labour because of the very nature of the activity.

47. Very few births were not registered, since 99 per cent of children were born in hospital, where registration was automatic. Thanks to the operation of mobile civil registration units, some 75 births had been registered in indigenous areas in 2015. In addition, mobile units had been established in coordination with the authorities of Panama

to register births among the Ngobe-Bugle indigenous population, who migrated between Panama and Costa Rica. A similar programme was being implemented along the northern border with Nicaragua.

48. With regard to minors in conflict with the law, since 2010 the National Commission on the Administration of Justice had sought to reflect the principles and aims of restorative justice in policies aimed at improving the access of minors to justice by providing for alternatives to judicial proceedings. Furthermore, child-friendly facilities had been established in a number of courts in order to guarantee the right of children to be heard in criminal proceedings. Regarding the monitoring of juvenile detention centres, the Office of the Deputy Public Prosecutor undertook visits to the various facilities in which young people were detained with a view to ensuring compliance with the human rights obligations set out in the Convention on the Rights of the Child.

49. **Ms. Sánchez Vanegas** (Costa Rica) said that in addition to the bill on HIV/AIDS, which set out the rights of persons living with HIV/AIDS and the obligations of others vis-à-vis such persons, another bill under consideration was aimed at eliminating all forms of discrimination. Under that bill, it would be prohibited to require a candidate for employment to submit a certificate stating that he or she was free of HIV/AIDS.

50. Bill No. 19099 on religious freedom and worship was currently before the Legislative Assembly. The reason for its introduction was that, except for the Roman Catholic Church, all religions had hitherto been treated by the law as associations. The bill would give religious groups and priests a legal personality and individual and collective rights. It would also establish a common platform between the Ministries of Foreign Affairs and Religion. It set out the core parameters for action, with a self-regulating mechanism.

51. Because the Legislative Assembly was made up of representatives of nine parties, reaching consensus was difficult. Some steps had been taken towards reform. For example, the number of days required to introduce a substantive motion had been reduced from four to two and speaking time had been reduced from one hour to 30 minutes. A system of registering how members of the Assembly had voted had also been established.

52. **Mr. Solano** (Costa Rica) said that, under Act No. 8764 on migration, irregular migrants could be held initially for 24 hours for identity checks. They could then be detained for a maximum of 30 days, during which time it was decided whether they should be deported or not. The situation of irregular migrants was complicated: there were currently 70 detainees in the country's long-term immigration detention facility in Hatillo, mostly from sub-Saharan Africa. The 57 Cubans mentioned earlier had been released and could move freely around the country but not leave it, since the Government had to find a third country to which they could be deported; they could not return to the country of origin. The detention facility was inadequate, because it had not been purpose-built. It was too small and held too many categories of detainee. Minors were usually transferred to youth hostels. Various plans had been put forward to improve the situation, one idea being to limit the number of persons apprehended. Older persons, persons with disabilities, pregnant women and persons with chronic or terminal illnesses were not detained. The Government planned to improve the facility's infrastructure, sanitation, and other aspects of the building and, in the meantime, it would rent a new building that would be more suitable. That plan was, however, facing administrative obstacles. In the long term, the Government planned to build permanent facilities, as well as shelters for victims of trafficking, asylum seekers and refugees.

53. **Mr. Carvajal** (Costa Rica) said that, in the case in which two women had been married, one of them had been registered as a man at the time of the marriage, so it had been registered as a heterosexual union. Article 16 of the Family Code, however, forbade same-sex marriages and the procedure to annul the union had been set in motion. Following

a challenge to the constitutionality of the law, the Constitutional Chamber of the Supreme Court was reconsidering the case, having considered a similar case in 2003, at which time the vote had been divided. In yet another case, the Judicial Inspection Court, the judges' oversight body, had opened a case against Judge Carlos Manuel Sánchez Miranda, who had recognized a same-sex union, even though the constitutionality of the law concerned was under consideration by the Constitutional Chamber. When a norm was challenged, it was not suspended but nor could a decision be based on it. The judge had applied it, nonetheless, and disciplinary action had been taken against him.

54. **Mr. Solano** (Costa Rica) said that consideration of bill No. 14352 of 2001 on the autonomous development of indigenous peoples had been deferred in July 2015 for a period of four years. It was therefore due to be considered in 2019 and was item 37 on the agenda of the Legislative Assembly. The main reason for the delay was the failure of the different stakeholders to reach consensus, so the Government had decided to wait until success could be assured.

55. **Mr. Carvajal** (Costa Rica) said, with regard to indigenous territories occupied by non-indigenous persons, that the problem was that some non-indigenous people had legal title to indigenous lands, while others had engaged in land-grabbing, taking advantage of the provisions in the Indigenous Peoples Act that there was no statutory limitation on land titles and that such land was not transferable. The indigenous peoples concerned had never been relocated or provided with compensation, but the Government had now taken the first step to rectifying the situation. It was putting together a handbook on restoring land to indigenous peoples under articles 3, 5, 8 and 9 of the Act. The Institute for Rural Development had recently submitted a national plan for restoring lands. The Government's priority was to deal with areas where there had been serious conflict between indigenous and non-indigenous people, such as Salitre.

56. **Mr. Politi** said it was his understanding that there were strict conditions on carrying out pretrial detention. A person could be detained if there was a risk of repetition of the offence or of evidence being tainted or if the person was fleeing justice. He would be interested, however, to know what review procedures existed and whether cases were reviewed automatically or only on the basis of an application. If so, he wondered what time frame was involved. He also asked whether a person could apply for provisional release. He would moreover appreciate a response to his questions about the short-term detention facility at Juan Santamaria International Airport.

57. **Mr. Vardzelashvili**, noting that it was impressively easy to appeal to the Human Rights Ombudsman, asked how many complaints were received from prison inmates. It was a matter of concern where statistics were not available. That suggested that either there was a problem and the response was not adequate or there was a lack of technical capacity to keep records.

58. The incommunicado detention practised in the State party did not appear to be the usual version of incommunicado detention, since a detainee could have contact with a lawyer, his or her family and the outside world. He wondered whether a person could choose his or her own lawyer.

59. **Mr. de Frouville** said that he had had no reply to his questions about the gender assignment operations for intersex persons, about cybercrime and about measures to strengthen the follow-up of recommendations by human rights treaty bodies; answers to those specific questions would be appreciated.

60. **Mr. Carvajal** (Costa Rica) said that the question of whether a person should be placed in remand or pretrial detention was determined only once a number of criteria had been met. Other measures could be imposed, however: bail, restrictions on the person's movements, an order not to approach a victim or an order not to leave the country. Remand

prisoners were held for a maximum of 6 months, except in the case of organized crime, in which case the period was 1 year. Extension was never automatic; a writ from the public prosecution service substantiating the application was required.

61. In Costa Rica, incommunicado detention meant that a person was separated from the other prisoners and could not be visited by his or her family. A detainee could consult either a lawyer of his or her choice or a State-appointed lawyer. Compared with other countries, it was perhaps a mitigated form of incommunicado detention.

62. **Mr. Solano** (Costa Rica) said that his country's policy was based on human rights, the rule of law and international law. The Government was therefore grateful for the dialogue with the Committee, which helped it to carry out a self-assessment and reminded it of the challenges in developing an inclusive society.

63. **The Chair** commended the human rights approach of Costa Rica and the information that it had provided to the Committee. He said that some areas still needed to be addressed, however. In its concluding observations, the Committee might like to consider the importance of the effective operation of the Human Rights Ombudsman and the need to provide enough resources. There were no major problems with the issue of freedom of expression, but he nevertheless drew the State party's attention to general comment No. 34, which was a useful guide to restrictive measures that could be used in line with article 19 (c) of the Covenant. Other problems recognized by both the Government and the Committee were prison overcrowding and violence against women. He was surprised that, although there had been 102 disciplinary investigations of possible perpetrators of torture, no charges had been brought. He wondered whether the preventive mechanism was working as well as it should.

64. The State party should also consider the prohibition of abortion: if the matter was not addressed, women would continue to have unsafe abortions, putting their lives at risk. The detention of migrants should be used only as a last resort. He commended the plan to establish an institutional platform for consultations with civil society. He also commended the work of the Constitutional Chamber of the Supreme Court, but he considered that its judgement on in vitro fertilization was not in line with its generally advanced approach. Perhaps the President could issue a decree on in vitro fertilization. Lastly, he was concerned at the use of the right of veto in the Legislative Assembly. If a minority could create permanent stalemate, progress would not be possible.

The meeting rose at 1.05 p.m.